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SENATE BILL 326

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Linda M Lopez

AN ACT

RELATING TO HEALTH CARE; PROVIDING ELIGIBILITY FOR CERTAIN
INDIVIDUALS UNDER THE RETIREE HEALTH CARE AUTHORITY; EXPANDING
ELIGIBILITY FOR THE AUTHORITY'S PRESCRIPTION DRUG PROGRAM

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990,
Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS. -- As used in the Retiree Health
Care Act:

A. "active employee" means an employee of a public
institution or any other public employer participating in
either the Educational Retirement Act, the Public Employees
Retirement Act, the Judicial Retirement Act, the Magistrate
Retirement Act or the Public Employees Retirement Reciprocity
Act or an employee of an independent public employer;

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1 B. "authority" means the retiree health care
2 authority created pursuant to the Retiree Health Care Act;

3 C. "basic plan of benefits" means only those
4 coverages generally associated with a medical plan of benefits;

5 D. "board" means the board of the retiree health
6 care authority;

7 E. "current retiree" means an eligible retiree who
8 is receiving a disability or normal retirement benefit under
9 the Educational Retirement Act, the Public Employees Retirement
10 Act, the Judicial Retirement Act, the Magistrate Retirement
11 Act, the Public Employees Retirement Reciprocity Act or the
12 retirement program of an independent public employer on or
13 before July 1, 1990;

14 F. "eligible dependent" means a person obtaining
15 retiree health care coverage based upon that person's
16 relationship to an eligible retiree as follows:

17 (1) a spouse;

18 (2) an unmarried child under the age of
19 nineteen who is:

20 (a) a natural child;

21 (b) a legally adopted child;

22 (c) a stepchild living in the same
23 household who is primarily dependent on the eligible retiree
24 for maintenance and support;

25 (d) a child for whom the eligible

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1 retiree is the legal guardian and who is primarily dependent on
2 the eligible retiree for maintenance and support, as long as
3 evidence of the guardianship is evidenced in a court order or
4 decree; or

5 (e) a foster child living in the same
6 household;

7 (3) a child described in Subparagraphs (a)
8 through (e) of Paragraph (2) of this subsection who is between
9 the ages of nineteen and twenty-five and is a full-time student
10 at an accredited educational institution; provided that
11 "full-time student" shall be a student enrolled in and taking
12 twelve or more semester hours or its equivalent contact hours
13 in primary, secondary, undergraduate or vocational school or a
14 student enrolled in and taking nine or more semester hours or
15 its equivalent contact hours in graduate school;

16 (4) a dependent child over nineteen who is
17 wholly dependent on the eligible retiree for maintenance and
18 support and who is incapable of self-sustaining employment by
19 reason of mental retardation or physical handicap; provided
20 that proof of incapacity and dependency shall be provided
21 within thirty-one days after the child reaches the limiting age
22 and at such times thereafter as may be required by the board;

23 (5) a surviving spouse defined as follows:

24 (a) "surviving spouse" means the spouse
25 to whom a retiree was married at the time of death; or

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1 (b) "surviving spouse" means the spouse
2 to whom a deceased vested active employee was married at the
3 time of death; or

4 (6) a surviving dependent child who is the
5 dependent child of a deceased eligible retiree whose other
6 parent is also deceased;

7 G. "eligible employer" means either:

8 (1) a "retirement system employer", which
9 means an institution of higher education, a school district or
10 other entity participating in the public school insurance
11 authority, a state agency, state court, magistrate court,
12 municipality, county or public entity, each of which is
13 affiliated under or covered by the Educational Retirement Act,
14 the Public Employees Retirement Act, the Judicial Retirement
15 Act, the Magistrate Retirement Act or the Public Employees
16 Retirement Reciprocity Act; or

17 (2) an "independent public employer", which
18 means a municipality, county or public entity that is not a
19 retirement system employer;

20 H. "eligible retiree" means:

21 (1) a "nonsalaried eligible participating
22 entity governing authority member" who is a person who is not a
23 retiree and who:

24 (a) has served without salary as a
25 member of the governing authority of an employer eligible to

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1 participate in the benefits of the Retiree Health Care Act and
2 is certified to be such by the executive director of the public
3 school insurance authority;

4 (b) has maintained group health
5 insurance coverage through that member's governing authority if
6 such group health insurance coverage was available and offered
7 to the member during the member's service as a member of the
8 governing authority; and

9 (c) was participating in the group
10 health insurance program under the Retiree Health Care Act
11 prior to July 1, 1993; or

12 (d) notwithstanding the provisions of
13 Subparagraphs (b) and (c) of this paragraph, is eligible under
14 Subparagraph (a) of this paragraph and has applied before
15 August 1, 1993 to the authority to participate in the program;

16 (2) a "salaried eligible participating entity
17 governing authority member" who is a person who is not a
18 retiree and who:

19 (a) has served with salary as a member
20 of the governing authority of an employer eligible to
21 participate in the benefits of the Retiree Health Care Act;

22 (b) has maintained group health
23 insurance through that member's governing authority, if such
24 group health insurance was available and offered to the member
25 during the member's service as a member of the governing

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1 authority; and

2 (c) was participating in the group
3 health insurance program under the Retiree Health Care Act
4 prior to July 1, 1993; or

5 (d) notwithstanding the provisions of
6 Subparagraphs (b) and (c) of this paragraph, is eligible under
7 Subparagraph (a) of this paragraph and has applied before
8 August 1, 1993 to the authority to participate in the program;

9 (3) an "eligible participating retiree" who is
10 a person who:

11 (a) falls within the definition of a
12 retiree, has made contributions to the fund for at least five
13 years prior to retirement and whose eligible employer during
14 that period of time made contributions as a participant in the
15 Retiree Health Care Act on the person's behalf, unless that
16 person retires on or before July 1, 1995, in which event the
17 time period required for employee and employer contributions
18 shall become the period of time between July 1, 1990 and the
19 date of retirement, and who is certified to be a retiree by the
20 educational retirement director, the executive secretary of the
21 public employees retirement board or the governing authority of
22 an independent public employer;

23 (b) falls within the definition of a
24 retiree, retired prior to July 1, 1990 and is certified to be a
25 retiree by the educational retirement director, the executive

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1 secretary of the public employees retirement association or the
2 governing authority of an independent public employer; but this
3 paragraph does not include a retiree who was an employee of an
4 eligible employer who exercised the option not to be a
5 participating employer pursuant to the Retiree Health Care Act
6 and did not after January 1, 1993 elect to become a
7 participating employer; unless the retiree: 1) retired on or
8 before June 30, 1990; and 2) at the time of retirement did not
9 have a retirement health plan or retirement health insurance
10 coverage available from his employer; or

11 (c) is a retiree who: 1) was at the
12 time of retirement an employee of an eligible employer who
13 exercised the option not to be a participating employer
14 pursuant to the Retiree Health Care Act, but which eligible
15 employer subsequently elected after January 1, 1993 to become a
16 participating employer; 2) has made contributions to the fund
17 for at least five years prior to retirement and whose eligible
18 employer during that period of time made contributions as a
19 participant in the Retiree Health Care Act on the person's
20 behalf, unless that person retires less than five years after
21 the date participation begins, in which event the time period
22 required for employee and employer contributions shall become
23 the period of time between the date participation begins and
24 the date of retirement; and 3) is certified to be a retiree by
25 the educational retirement director, the executive director of

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1 the public employees retirement board or the governing
2 authority of an independent public employer; [øæ]

3 (4) a "legislative member", which means a
4 person who is not a retiree and who served as a member of the
5 New Mexico legislature for at least two years, but is no longer
6 a member of the legislature and is certified to be such by the
7 legislative council service; or

8 (5) a "former participating employer governing
9 authority member", which means a person, other than a
10 nonsalaried eligible participating entity governing authority
11 member or a salaried eligible participating entity governing
12 authority member, who is not a retiree and who served as a
13 member of the governing authority of a participating employer
14 for at least four years but is no longer a member of the
15 governing authority and is certified to be such by the chief
16 executive officer of the participating employer;

17 I. "fund" means the retiree health care fund;

18 J. "group health insurance" means coverage that
19 includes but is not limited to life insurance, accidental death
20 and dismemberment, hospital care and benefits, surgical care
21 and treatment, medical care and treatment, dental care, eye
22 care, obstetrical benefits, prescribed drugs, medicines and
23 prosthetic devices, medicare supplement, medicare carveout,
24 medicare coordination and other benefits, supplies and services
25 through the vehicles of indemnity coverages, health maintenance

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1 organizations, preferred provider organizations and other
2 health care delivery systems as provided by the Retiree Health
3 Care Act and other coverages considered by the board to be
4 advisable;

5 K. "ineligible dependents" include:

6 (1) those dependents created by common law
7 relationships;

8 (2) dependents while in active military
9 service;

10 (3) parents, aunts, uncles, brothers, sisters,
11 grandchildren and other family members left in the care of an
12 eligible retiree without evidence of legal guardianship; and

13 (4) anyone not specifically referred to as an
14 eligible dependent pursuant to the rules and regulations
15 adopted by the board;

16 L. "participating employee" means an employee of
17 a participating employer, which employee has not been expelled
18 from participation in the Retiree Health Care Act pursuant to
19 Section 10-7C-10 NMSA 1978;

20 M. "participating employer" means an eligible
21 employer who has satisfied the conditions for participating in
22 the benefits of the Retiree Health Care Act, including the
23 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
24 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

25 N. "public entity" means a flood control authority,

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1 economic development district, council of governments, regional
2 housing authority, conservancy district or other special
3 district or special purpose government; and

4 0. "retiree" means a person who:

5 (1) is receiving:

6 (a) a disability or normal retirement
7 benefit or survivor's benefit pursuant to the Educational
8 Retirement Act;

9 (b) a disability or normal retirement
10 benefit or survivor's benefit pursuant to the Public Employees
11 Retirement Act, the Judicial Retirement Act, the Magistrate
12 Retirement Act or the Public Employees Retirement Reciprocity
13 Act; or

14 (c) a disability or normal retirement
15 benefit or survivor's benefit pursuant to the retirement
16 program of an independent public employer to which that
17 employer has made periodic contributions; or

18 (2) is not receiving a survivor's benefit but
19 is the eligible dependent of a person who received a disability
20 or normal retirement benefit pursuant to the Educational
21 Retirement Act, the Public Employees Retirement Act, the
22 Judicial Retirement Act, the Magistrate Retirement Act or the
23 Public Employees Retirement Reciprocity Act. "

24 Section 2. Section 10-7C-13 NMSA 1978 (being Laws 1990,
25 Chapter 6, Section 13, as amended) is amended to read:

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1 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE

2 PLANS. --

3 A. Except as otherwise provided in this section,
4 each eligible retiree shall pay a monthly premium for the basic
5 plan in an amount set by the board not to exceed fifty dollars
6 (\$50.00) plus the amount, if any, of the compounded annual
7 increases authorized by the board, which increases shall not
8 exceed nine percent until fiscal year 2008 after which the
9 increases shall not exceed the authority's group health care
10 trend. In addition to the monthly premium for the basic plan,
11 each current retiree and nonsalaried eligible participating
12 entity governing authority member who becomes an eligible
13 retiree shall also pay monthly an additional participation fee
14 set by the board. That fee shall be five dollars (\$5.00) plus
15 the amount, if any, of the compounded annual increases
16 authorized by the board, which increases shall not exceed nine
17 percent until fiscal year 2008 after which the increases shall
18 not exceed the authority's group health care trend. The
19 additional monthly participation fee paid by the current
20 retirees and nonsalaried eligible participating entity
21 governing authority members who become eligible retirees shall
22 be a consideration and a condition for being permitted to
23 participate in the Retiree Health Care Act. A legislative
24 member or a former participating employer governing authority
25 member shall pay a monthly premium for any selected plan equal

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1 to one-twelfth of the annual cost of the claims and
2 administrative costs of that plan allocated to the member by
3 the board. In addition, a legislative member or a former
4 participating employer governing authority member shall pay the
5 additional monthly participation fee set by the board pursuant
6 to this subsection as a consideration and condition for
7 participation in the Retiree Health Care Act. Eligible
8 dependents shall pay monthly premiums in amounts that with
9 other money appropriated to the fund shall cover the cost of
10 the basic plan for the eligible dependents.

11 B. Eligible retirees and eligible dependents shall
12 pay monthly premiums to cover the cost of the optional plans
13 that they elect to receive, and the board shall adopt rules for
14 the collection of additional premiums from eligible retirees
15 and eligible dependents participating in the optional plans.
16 An eligible retiree or eligible dependent may authorize the
17 authority in writing to deduct the amount of these premiums
18 from the monthly annuity payments, if applicable.

19 C. The participating employers, active employees
20 and retirees are responsible for the financial viability of the
21 program. The overall financial viability is not an additional
22 financial obligation of the state.

23 D. For eligible retirees who become eligible for
24 participation on or after July 1, 2001, the board may determine
25 monthly premiums based on the retirees' years of credited

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1 service with participating employers. "

2 Section 3. Section 10-7C-17 NMSA 1978 (being Laws 2002,
3 Chapter 75, Section 2 and Laws 2002, Chapter 80, Section 2, as
4 amended) is amended to read:

5 "10-7C-17. CREATION OF SENIOR PRESCRIPTION DRUG
6 PROGRAM --

7 A. The "senior prescription drug program" is
8 created in the authority.

9 B. To be eligible for the senior prescription drug
10 program, a person shall [~~(1)~~] be a resident of the state. [~~and~~
11 ~~(2) be sixty-five years of age or older.~~]

12 C. Upon a determination that the person qualifies
13 for the senior prescription drug program, the authority may
14 assess an annual administrative fee not to exceed sixty dollars
15 (\$60.00) per year. The authority shall collect the fees, which
16 shall be used by the authority to cover the cost of
17 administering the program.

18 D. The amount a qualified person pays for a
19 prescription drug shall not exceed the total cost of the
20 dispensing fee plus the contracted discounted price made
21 available to the authority for this group of seniors.

22 E. The authority shall enroll and provide
23 participants with electronic or other form of membership
24 identification for use by pharmacies for each transaction.

25 F. The authority shall actively promote membership

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1 and benefit information on the senior prescription drug program
2 to seniors and the general public throughout the state."

3 Section 4. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2005.

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